

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

RP.No. 37 of 2007(W)

AGAINST JUDGMENT IN WP(C) NO.24559/2006 DATED 16/11/2006

REVIEW PETITIONER/3RD RESPONDENT:

AMBALLOOR JANATHA SERVICE CO-OPERATIVE
BANK LTD.NO.19, AMBALLOOR P.O., PIN-682 315,
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.ASOK M.CHERIAN

RESPONDENTS: PETITIONER AND RESPONDENTS 1 & 2 IN THE WP(C):

1. P.N. DAMODARAN, S/O. NARAYANAN,
AGED 71 YEARS, PULARIKUKZHIYIL HOUSE,
MAARITHAZHAM P.O., KANJIRAMATTAM, ERNAKULAM DIST.
2. THE JOINT REGISTRAR (GENERAL),
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, ERNAKULAM.
3. INSPECTOR OF CO-OPERATIVE SOCIETIES,
ARBITRATION AND EXECUTION, KANAYANNOOR, COCHIN-16.

BY SENIOR GOVERNMENT PLEADER, SRI P.N.SANTHOSH
ADV.C.A CHACKO

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 16/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

J.M.JAMES, J.

R.P.No.37/2007 (W)
in W.P.(C) No. 24559 of 2006

Dated this the 16th day of January, 2007

O R D E R

The submission of the counsel for the review petitioner is that no instruction was given to the counsel, who then represented the review petitioner in W.P(C) No.24559/2006, to submit that there was no objection to the review petitioner in re-conveying the property, on the first respondent (the writ petitioner), paying back the entire amount, due to the review petitioner.

2. The counsel submits that under Rule 54(2) of the Kerala Co-operative Societies Rules, 1969, in short 'the Rules', the Society cannot dispose of any immovable property without the prior permission of the general body as well as the Registrar. Therefore, the counsel further submits that the observation in paragraph (5) of the judgment dated 16/11/2006, that there is no objection for the review petitioner bank in re-conveying the property to the first respondent (the writ petitioner), may be reviewed.

3. The judgment sought to be reviewed was dictated and pronounced in open Court, after hearing all concerned. The counsel for the review petitioner were also heard. The submissions made by the counsel had been incorporated in the judgment. The review will lie only when an error is apparent on the face of the record or when there is an error of procedure or to prevent the mis-carriage of justice or to correct grave and palpable errors committed by the Court. After having made a submission, which became a part of the judgment and which is not apparently an error, need not be reviewed.

4. Rule 54(2) of the Rules, only lays down that there shall be a prior approval by the general body as well as the Registrar for disposing of the property. In the instant case, the first respondent is a member of the review petitioner bank. The counsel for the review petitioner submits that the value of the property has increased, that is the reason why the first respondent came with the writ petition for paying the amount and getting back the property. When the first respondent repays the entire amount due to the review petitioner bank, together

with interest and all the costs, in the normal circumstances, a bank which is doing service to its members, need not be concerned with other aspects. The Court is also not to be carried away with the value of the properties, when the first respondent is prepared to pay back the entire amount to the bank. It is for the Board of Directors of the review petitioner bank, to comply with Rule 54(2) of the Rules and re-convey the property. Therefore, I find no ground at all to review any portion of the paragraph (5) of the judgment. Hence, no further interference is required in the judgment dated 16/11/2006.

The review petition is closed as above.

(J.M.JAMES)
Judge

ms